IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11847 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NAVNITLAL PIRUSHOTTAMDAS BAROT

Versus

THE INDIAN AIRLINES CORPORATIO

Appearance:

1. Special Civil Application No. 11847 of 2002

MR DC DAVE for Petitioner No. 1-2

MR GN SHAH for Respondent No. 1

MS MINOO A SHAH for Respondent No. 1

MR SV RAJU for Respondent No. 2

MR P A MEHD for Respondent No. 3-4

MR JB PARDIWALA for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 11/10/2004

ORAL JUDGEMENT

In this petition, the petitioner have challenged the order dated 17th October 2000 passed by the learned Judge, City Civil Court, Ahmedabad below Ex.82 in Civil Suit No.1506 of 1993, by which the application of the respondent Nos.3 & 4 was allowed and they were, in essence, permitted to be joined as plaintiffs along with the present petitioners in the above mentioned civil suit.

2. The counsel for the petitioners and the counsel for the respondent Nos.3 & 4 have jointly submitted before this Court that the contesting parties have arrived at a settlement and have prayed that the order of the learned City Civil Judge dated 17.10.2000 be modified accordingly. It is agreed between the parties that the respondent Nos.3 & 4 herein will not be entitled to join as plaintiffs in the said proceedings, however, a direction may be issued to the effect that at the time of disbursement of the amount of compensation that the civil court may find receivable from respondent Nos.1 & 2, the respondent Nos.3 & 4 herein will be heard with respect to their right to receive their share, if any, from the said amount. This, of course, will be subject to the contentions that may be raised by the petitioners herein.

3. In the result, at the joint request of the learned advocates appearing for the parties, the impugned order dated 17.10.2000 is set aside and it is directed that instead of respondent Nos.3 & 4 herein being joined as plaintiffs in the pending Civil Suit No.1506/93, the said respondents will have a right to be heard before the City Civil Court at the time when the Court is considering the question of disbursement of the compensation amount, if found payable by the respondent Nos.1 & 2 in the said civil suit. The City Civil Court will pass appropriate orders at the request of respondent No.3 and 4 as well as after considering the objections of the petitioners herein. It is further provided that in case the City Civil Court decides that respondent Nos.3 & 4 are entitled to receive any amount from the compensation that may be awarded, the same shall be ordered to be paid in the same proceedings. It will be open for the parties to apply to the City Civil Court for separating the present civil suit from other proceedings and the City Civil Court will pass appropriate orders in accordance with law after hearing all parties.

4. In the result, the petition is allowed to the above extent. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)

(vjn)